

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer
Gregory Scott
Marshall Johnson
Phyllis Reha
Ellen Gavin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

JUN 13

Jason D. Topp
Qwest Corporation
Law Department
200 South Fifth Street, Room 395
Minneapolis, MN 55402

SERVICE DATE: JUN 12 2003

DOCKET NO. P-5446,421/IC-03-429

In the Matter of an Application for Approval of the March 25, 2003 Amendment to the Interconnection Agreement Between Otter Tail Telecom, L.L.C. and Qwest Corporation (Originally Approved in Docket No. P-5446,421/M-97-1463); Transit Record Exchange Agreement to Co-Carriers (Wireline - Transit Qwest - CLEC) and Transit Record Exchange Agreement to Co-Carriers (WSP - Transit Qwest - CLEC)

The above entitled matter has been considered by the Commission and the following disposition made:

Proposed amendment to interconnection agreement accepted

This decision is issued by the Commission's consent calendar subcommittee, under a delegation of authority granted under Minn. Stat. § 216A.03, subd. 8 (a). Unless a party, a participant, or a Commissioner files an objection to this decision within ten days of receiving it, it will become the Order of the full Commission under Minn. Stat. § 216A.03, subd. 8 (b).

The Commission agrees with and adopts the recommendations of the Department of Commerce which are attached and hereby incorporated in the Order.

BY ORDER OF THE COMMISSION


Burl W. Haar
Executive Secretary

(S E A L)

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MINNESOTA
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RECEIVED

April 28, 2003

MAY 05 2003

MN PUBLIC UTILITIES COMMISSION

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: In the Matter of the Application for Approval of the Amendment to an Interconnection
Between Otter Tail Telecom, L.L.C. and Qwest Corporation
Docket No. P5446,421/IC-03-429

Dear Dr. Haar:

Interconnection agreements and amendments to interconnection agreements that are not arbitrated under §252 of the Federal Telecommunications Act of 1996 may be approved without hearing under Minn. Stat. §216A.03, subd. 7. The Public Utilities Commission's (Commission) Order designating interconnection agreements and amendments to interconnection agreements as subject to a standing order was issued on August 25, 2000 in Docket No. P999/CI-00-634. The use of a standing order is to apply to filings submitted on or after September 1, 2000.

As required by the Commission's August 25, 2000 Order, the Department of Commerce has reviewed and analyzed the current filing. Attached is the Minnesota Department of Commerce's Checklist for processing amendments to interconnection agreements. The Checklist reflects the Department's analysis of the issues and language that the Commission has established to meet the requirements that interconnection agreements or amendments thereto not discriminate against third parties, harm the public interest or conflict with state law.

The amendment was filed on March 25, 2003

Topic of the amendment: Transit Record Exchange Agreement to Co-Carriers (Wireline - Transit Qwest - CLEC) and Transit Record Exchange Agreement to Co-Carriers (WSP- Transit Qwest - CLEC).

Interconnection Agreement amended (Docket No. P5446,421/M-97-1463 effective December 22, 1997)

Wireless or Wireline: Wireline and Wireless

Burl W. Haar
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The Petition was filed by:

Jason D. Topp
Qwest Corporation
Law Department
200 South 5th Street, Room 395
Minneapolis, Minnesota 55402

Conditions for implementation: None

The Department's analysis finds that the interconnection agreement complies with the Commission's requirements as indicated on the attached Checklist. The Department is submitting this memorandum recommending that the Commission **approve** the amendment to the interconnection agreement either at a Commission hearing or by way of the standing order process ordered on August 25, 2000.

Sincerely,

BRUCE L. LINSCHIED
FINANCIAL ANALYST

BLL/ja
Attachment

CHECKLIST FOR PROCESSING AMENDMENTS TO INTERCONNECTION AGREEMENTS

ANALITICAL PROCEDURES

A. AMENDMENTS TO INTERCONNECTION AGREEMENTS

- ☒ 1. Amendment modifies an approved interconnection agreement. (Identify docket and date of Order) Docket No. P5446,421/M-97-1463 effective December 22, 1997
- ☐ 2. Amendment addresses language required by the Commission to meet the requirements of 47 CFR 252(e)(2) and (3).
- ☐ 3. The Parties have complied with the Commission's requirement for prior approval of an amendment to an interconnection agreement.¹ Qwest seeks prior approval of the language in this agreement on a going-forward basis. This agreement was previously not filed with the Commission, but it is now being submitted to comply with Section 252(a) filing requirements.
- ☐ 4. Amendment addresses an issue on which the Commission has established its position.

Identify the topic: _____

- ☐ a) Language complies with the Commission's position. Indicate the section and page where this language is found.

- ☐ b) Language does not comply with the Commission's preference, but was negotiated and, therefore, meets the statutory requirements.² Indicate the section and page where this language is found.

- ☒ 5. Amendment does not cover a topic on which the Commission has established a precedent.
- ☒ a. Identify the topic: Transit Record Exchange Agreement to Co-Carriers (Wireline - Transit Qwest - CLEC) and Transit Record Exchange Agreement to Co-Carriers (WSP- Transit Qwest - CLEC)

¹ In the Matter of the Application for Approval of the Agreement for Interconnection and Traffic Interchange between Cellular Mobil Systems of St. Cloud, Minnesota L.L.P. and U S WEST Communications, Inc., Docket No. P421/EM-97-437 at page 6.

² In the Matter of the Federal Court Remand of Issues Proceeding from the Interconnection Agreements Between U S WEST Communications and Sprint Spectrum, Triad Minnesota, and Cellular Mobil Systems, ORDER AFTER REMAND APPROVING NEGOTIATED LANGUAGE, P5457,421/M-99-794 dated November 24, 1999 at pages 2 and 3.

☒ b. Topic does not threaten the public interest, discriminate against third parties or conflict with state law.

☒ 1) Agree (explain). The Parties have agreed to these terms. Nothing in the Amendment challenges the Commission's authority or state law.

☐ 2) Disagree.

☒ 6. Specify conditions required for approval.

☐ a. Yes. (Identify)

☒ b. None

☒ 7. Other Comments.

This interconnection agreement amendment was executed on January 5 and 8, 2001. It was previously submitted as part of the Department's investigation into Qwest's interconnection agreement filing practices in Docket No. P421/IC-02-197, but is now being submitted for Commission approval. This interconnection agreement amendment was not one of the agreements that the Department chose to use as part of its complaint. However, this should not suggest that Commission approval of this agreement amendment is not necessary. The agreements selected by the Department were limited for the purposes of the contested case process in Docket No. P421/IC-02-197. It is the position of the Department that Qwest has always been responsible to file this agreement.

The Colorado Commission identified the following criteria for denying interconnection agreements in a similar investigation because they either discriminate against non-parties or are inconsistent with the public convenience and necessity in violation of 47 U.S.C. § 252(e)(2) (Docket No. 96A-287T, Decision No. C02-1295, Adopted November 13, 2002):

- Confidential provisions that are an essential element of the respective agreement or redact essential financial information from the filed agreement (page 10).
- Agreements that contain an arrangement between Qwest and the CLEC whereby the CLEC will withdraw from the US WEST/Qwest merger or the Qwest 271 proceeding (page 11).
- Documents filed by Qwest that do not contain the entire agreement (page 12).

In this agreement, the Department has no concerns.

Companies: Otter Tail Telecom, L.L.C. and Qwest Corporation
Docket No.: P5446,421/IC-03-429

B. RECOMMENDATION OF THE DEPARTMENT

 x 1. Accept the interconnection agreement/amendment.

Conditions: None

 2. Reject the interconnection agreement/amendment. (Not subject to the standing order.)